

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE KRAFT HEINZ
SECURITIES LITIGATION

Case No. 1:19-cv-01339

Honorable Robert M. Dow Jr.

SECOND JOINT STATUS REPORT

Lead Plaintiffs Sjunde AP-Fonden and Union Asset Management Holding AG, additional named Plaintiff Booker Enterprises Pty Ltd., (collectively, “Plaintiffs”), and The Kraft Heinz Company (“Kraft Heinz Defendants” or the “Company”), Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira (together, the “Kraft Heinz Defendants”), and 3G Capital Partners and its affiliates¹ (“Defendant 3G”), (collectively, “Defendants,” and Plaintiffs and Defendants taken together, the “Parties”), by and through their respective counsel, have met and conferred and submit the following supplemental joint status report pursuant to the Court’s Order (ECF No. 328):

I. STATUS OF DISCOVERY:

The deadline for Defendants to complete taking class certification discovery of Plaintiffs was Thursday, May 5, 2022. The deadline for Plaintiffs to complete taking class certification discovery of Defendants is July 8, 2022. The deadline for substantial completion of all document discovery is August 12, 2022. The fact discovery deadline is February 17, 2023. The expert discovery deadline is June 20, 2023.

A. Plaintiffs’ Discovery Efforts

On September 17, 2021, Plaintiffs served their First Requests for the Production of Documents, requesting, among other documents, those Defendants previously produced to the SEC and DOJ in connection with those agencies’ investigations (the “Government Productions”) and any documents Defendants had produced in connection with the Section 220 Demand in the related shareholder derivative litigation or any internal investigation concerning the issues

¹ Inclusive of the following affiliated funds and business entities: 3G Capital, Inc. (a Delaware corporation); the Cayman Islands business entities 3G Global Food Holdings, L.P.; 3G Global Food Holdings GP LP; 3G Capital Partners LP; 3G Capital Partners II LP; and 3G Capital Partners Ltd.

underlying Plaintiffs' claims. Defendants produced the Government Productions and Section 220 documents over the following months.

Plaintiffs served an initial set of interrogatories on Defendants on October 5, 2021, and Plaintiffs received Defendants' responses and objections on November 18, 2021. Plaintiffs served a second set of interrogatories on Defendants on December 2, 2021 and received Defendants' responses and objections on January 3, 2022. Plaintiffs served requests for admission on Defendants on January 28, 2022 and received Defendants' responses on February 28, 2022.

On November 12, 2021, Plaintiffs served a second set of discovery requests on Defendants principally directed to the substantial areas of document discovery not covered by the Government Productions. After extensive meet and confers since the service of this second set of discovery requests, Plaintiffs and the 3G Defendants reached agreement on a complete search protocol on May 12, 2022. Plaintiffs and the Kraft Heinz Defendants also engaged in extensive meet and confers regarding their responses to the second set of discovery requests and in particular on the scope of Defendants' search for responsive electronically stored information ("ESI").

Plaintiffs and the Kraft Heinz Defendants have reached an agreement as to the custodians for Kraft Heinz's response to these requests. The parties have agreed to certain search terms; the Kraft Heinz Defendants are presently testing Plaintiffs' proposed terms in the body of ESI collected. The parties continue to discuss search protocols for: (1) custodial emails and chats and other custodial sources; (2) ESI containing Portuguese; (3) non-custodial sources; and (4) sources of ESI in the Individual Defendants' custody, possession, or control. The Kraft Heinz Defendants expect to begin a rolling production of ESI on June 15, 2022. The 3G Defendants expect to begin rolling productions in the coming weeks.

On April 26, 2022, Defendants disclosed for the first time to Plaintiffs the existence of an “internal investigation conducted by KHC’s independent directors” concerning certain of the matters at issue and that resulted in a “Working Group Report,” as Defendants and their expert relied upon in their opposition to class certification. (*See, e.g.*, ECF No. 359, p.14 n.5.) The Parties have begun to meet and confer concerning the circumstances of this “internal investigation” (*id.*), the timing of its disclosure to Plaintiffs, and the timing of the production of documents gathered in that investigation.

B. Defendants’ Discovery Efforts

The Kraft Heinz Defendants served discovery requests on Plaintiffs on November 15, 2021, and received Plaintiffs’ responses and objections on December 15, 2021. Following several discussions, the Parties reached an agreement as to a search protocol for Plaintiffs’ response to those requests on December 27, 2021. Plaintiffs produced documents in response to those requests on a rolling basis between February 1, 2022 and May 2, 2022.

The 3G Defendants served discovery requests on Plaintiffs on December 13, 2021, and Plaintiffs responded on January 12, 2022. Plaintiffs have completed production in response to these requests.

The Kraft Heinz Defendants served interrogatories on Plaintiffs on November 15, 2021, and Plaintiffs responded on December 15, 2021. The 3G Defendants served interrogatories on Plaintiffs on December 13, 2021, and Plaintiffs responded on January 12, 2022.

Defendants served three deposition notices on AP-7, which included Rule 30(b)(1) depositions of AP-7’s Chief Executive Officer and AP-7’s Chief Investment Officer and a Rule 30(b)(6) deposition of AP-7. On April 26, 2022, Defendants deposed AP-7’s Chief Executive Officer pursuant to their Rule 30(b)(1) and Rule 30(b)(6) deposition notices. Defendants served a

deposition notice on Plaintiff Booker and that deposition was completed on April 25, 2022. Defendants served a Rule 30(b)(6) deposition on Lead Plaintiff Union and two Union executives were deposed on May 4, 2022.

The Kraft Heinz Defendants made an additional request for documents on April 28, 2022 following AP-7's Rule 30(b)(6) deposition. AP-7 made a supplemental production of documents on May 16, 2022 in response to those requests.

Following Union's Rule 30(b)(6) depositions, on May 18, 2022, the Kraft Heinz Defendants served Rule 30(b)(1) deposition notices for the depositions of eight employees of Union, as well as a Second Document Request to Union. The parties are meeting and conferring regarding these latest requests.

C. Class Certification

Plaintiffs moved for class certification on March 28, 2022. Defendants filed their brief in opposition on May 20, 2022. Plaintiffs' reply brief in support of class certification is due July 19, 2022. On May 5, 2022, Defendants deposed Dr. David Tabak, who has offered expert testimony in connection with Plaintiffs' Motion for Class Certification. Plaintiffs anticipate deposing Dr. Allen Ferrell and Mr. Lawrence W. Smith who have offered expert testimony in connection with Defendants' opposition to Plaintiffs' Motion for Class Certification.

II. MEDIATION EFFORTS:

The Parties have discussed mediation, but believe that a mediation would be most productive after further discovery.

III. PROPOSED STATUS REPORT DATE:

Given the scope of the Parties' ongoing discovery efforts, the Parties believe that regular joint status reports to the Court would be helpful. The Parties propose that the Court order monthly joint status reports on discovery matters, with the next proposed date of June 28, 2022.

Dated: June 1, 2022

Respectfully submitted,

/s/ Katherine M. Sinderson

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